

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

SHEILA O'CONNELL COOPER, §
§
Plaintiff, §
§
v. § 4:04cv271
§
THE PAMPERED CHEF, LTD. and §
DORIS CHRISTOPHER, §
§
Defendants. §

**MEMORANDUM ADOPTING IN PART THE REPORT
AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the Report of the United States Magistrate Judge in this action, this matter having been heretofore referred to United States Magistrate Judge Don D. Bush pursuant to 28 U.S.C. § 636. On May 11, 2005, the Report of the Magistrate Judge was entered containing his proposed findings of fact and recommendations that Defendants' Motion for Summary Judgment be denied with regard to Plaintiff's claim for breach of contract and granted with regard to Plaintiff's other claims. The Magistrate Judge further recommended the Plaintiff's Motion for Summary Judgment be denied.

Having received the report of the United States Magistrate Judge, and having made a *de novo* review of the objections filed by both parties, the Court is of the opinion that the objections of both parties are without merit. The Court finds that questions of fact remain with respect to Plaintiff's breach of contract claim on the issues of both modification and waiver. The Court adopts the remaining findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is, therefore,

ORDERED, ADJUDGED and DECREED and Defendants' Motion for Summary

Judgment is **DENIED** regarding Plaintiff's claim for breach of contract and **GRANTED** regarding Plaintiff's claims for promissory estoppel, tortious interference with existing contract, fraud, negligent misrepresentation, and defamation. It is further **ORDERED** that Plaintiff's Motion for Summary Judgment is **DENIED**.

SIGNED this 31st day of May, 2005.



PAUL BROWN
SENIOR UNITED STATES DISTRICT JUDGE